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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/627,558	07/28/2000	Thomas J. Herder	COS99070	3287

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TECHNOLOGY LAW DEPARTMENT
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EXAMINER

BROWN, CHRISTOPHER J

ART UNIT PAPER NUMBER

2134

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/627,558

Applicant(s)

HERDER, THOMAS J.

Examiner

Christopher J Brown

Art Unit

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 3, and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Buffam US 6,185,316.

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As per claim 1, Buffam teaches a method of validating a user for a transaction by using a transaction card. Buffam teaches configuring a biometric profile for a user including a plurality of biometric samples, (Col 18 lines 18-35, 57-63). Buffam teaches associating said biometric profile with indicia, (Col 16 line 65- Col 17 line 8). Buffam teaches biometrically interrogating said user when said transaction is attempted, (Col 18 lines 65- Col 19 line 2). Buffam teaches approving the user if the biometric profiles match, (Col 17 lines 2-9).

As per claim 3, Buffam teaches inputting an indicia (PIN) after the biometric response has been authenticated, (Col 17 lines 1-10).

As per claim 5, Buffam teaches configuring a biometric profile manually, (Col 18 lines 23-27).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buffam US 6,185,316 in view of Kanevsky US 5,897,616.

As per claim 2, Buffam teaches biometrics using voice recognition, (Col 18 lines 39-44).

Buffam does not teach random questions.

Kanevsky teaches matching voice samples taken from answers to random questions, (Col 3 lines 28-32, 39-44). It would have been obvious to use the random questions of Kanevsky with the voice recognition of Buffam because random questions ensure that a fraudulent user will not know the answers to gain access.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buffam US 6,185,316 in view of Fujimoto US 5,893,057.

Buffam teaches biometric authentication with a Pin. Buffam fails to teach asking for a PIN if the biometric authentication fails.

Fujimoto teaches using a Pin as alternative authentication in case Biometric authentication fails, (Col 14 lines 20-30).

It would have been obvious to one of ordinary skill in the art to use the alternative authentication of Fujimoto with Buffam to provide an alternate method of authentication in case a users biometrics are not correct, such as a, hoarse voice, or cut finger.

Claims 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buffam US 6,185,316 in view of Glaze US 6,320,974.

As per claims 6, and 7 Buffam teaches configuring a biometric profile. Buffam fails to teach updating said profile.

Glaze teaches automatically updating and configuring a biometric profile in a database of biometric profiles, (Col 4 lines 30-47).

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It would have been obvious to one of ordinary skill in the art to use the Glaze's updating profiles with Buffam's biometric profiles because people's biometric signatures change over time.

Claims 8, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buffam US 6,185,316 in view of Kanevsky US 5,897,616 in view of Sawyer US 6,324,271.

As per claim 8, Buffam teaches configuring a biometric profile for a user including a plurality of biometric samples, (Col 18 lines 18-35, 57-63). Buffam teaches biometrics using voice recognition, (Col 18 lines 39-44). Buffam teaches approving the user if the biometric profiles match, (Col 17 lines 2-9). Buffam teaches inputting indicia (PIN) after the biometric response has been authenticated, (Col 17 lines 1-10).

Buffam fails to teach PSTN.

Kanevsky teaches matching voice samples taken from answers to random questions, (Col 3 lines 28-32, 39-44). Kanevsky fails to teach PSTN.

Sawyer teaches a calling card in use with a PIN and biometric authentication for use over a PSTN network, (Col 4 lines 22-30, Col 7 lines 45-51).

It would be obvious to use the PSTN because it is the most widely used means for telephonic communication.

As per claim 9 the previous Buffam-Kanevsky combination fails to teach DTMF.

Sawyer teaches use of DTMF to answer random questions, (Col 7 line 53-60).

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As per claim 10, Buffam-Kanevsky teaches inputting indicia (PIN) after the biometric response has been authenticated, (Buffet Col 17 lines 1-10).

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buffam US 6,185,316 in view of view of Kanevsky US 5,897,616 in view of Sawyer US 6,324,271 in view of Fujimoto US 5,893,057

As per claim 11, Buffam teaches biometric authentication with a Pin. Buffam fails to teach asking for a PIN if the biometric authentication fails.

Fujimoto teaches using a Pin as alternative authentication in case Biometric authentication fails, (Col 14 lines 20-30).

Claims 12-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sawyer US 6,324,271 in view of Weiss US 4,998,279.

As per claims 12, and 16 Sawyer teaches a network operable with a terminal in association with a transaction card, (Col 4 lines 20-24). If a fraudulent transaction is attempted the card will require a biometric sample, (Col 4 lines 57-62). Sawyer teaches a controller to handle network queries, (Col 6 lines 8-14). Sawyer teaches submitting a biometric profile for authentication, (Col 7 lines 45-52). Sawyer does not teach submitting the biometric authentication over a network.

Weiss teaches submitting biometric indicia over a telephone network to a store with biometric profiles for authentication.

It would have been obvious to one skilled in the art to use the network and biometric store of Weiss with the biometric authentication of Sawyer, so that the biometric profiles would be in a secure location.

As per claim 13, Sawyer teaches the transaction to be placing a calling card call, or accessing an account, (Fig 1, Col 8 lines 64).

As per claim 14, Sawyer teaches using a voiceprint, (Col 7 line 50).

As per claim 15 Sawyer teaches using a fingerprint, (Col 7 line 50).

As per claim 17, Sawyer teaches the biometric is a fingerprint, (Col 7 line 50).

As per claim 18, Sawyer teaches the biometric is voice, (Col 7 line 50).

As per claim 19, Sawyer teaches an automated response unit, (Col 7 lines 30-37).

As per claim 20, Sawyer teaches a wired phone, (Col 5 lines 50-52).

As per claim 21, Sawyer teaches an Internet phone, (Col 56-58).

As per claim 22, Sawyer teaches a wireless communication device, (Col 5 line 55).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mark US 5,949,874.

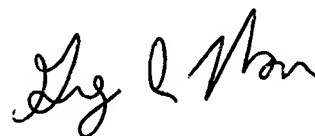
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J Brown whose telephone number is (571)272-3833. The examiner can normally be reached on 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on (571)272-3838. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher J Brown

3/5/05



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